



**DECISION OF
MNSURE BOARD
ON APPEAL**

In the Appeal of: [REDACTED]
For: Enrollment in a Qualified Health Plan
Agency: MNSure
Docket: 165819

On August 26, 2015 Appeals Examiner Victoria M. Lemberger held an evidentiary hearing under 42 U.S.C. §18081(f) and Minn. Stat. §62V.05, Subd. 6(a).

The following person appeared at the hearing:

[REDACTED] Appellant

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUE

Whether the MNsure Board correctly determined that the Appellant was eligible for enrollment in a Qualified Health Plan effective April 1, 2015.

FINDINGS OF FACT

1. On March 24, 2015, the appellant and his broker called MNsure to report that the family had recently lost access to employer-sponsored insurance. *Exhibit 2*. MNsure (herein Agency) determined that the appellant was eligible for a special enrollment period. *Id.* On that day, the appellant selected a qualified health plan. *Id.* The appellant and broker spoke with a representative from MNsure and advised them that coverage would begin on April 1, 2015. *Id.*

2. MNsure sent the enrollment materials to the health insurance carrier on April 21, 2015. *Exhibit 2*. On May 1, 2015 the appellant called MNsure to check on the status of his coverage. *Id.* At that time he was told that the enrollment materials had been sent to the carrier. *Id.*

3. The appellant called his broker and was told that his coverage would not begin until May 1, 2015. *Id.* The appellant filed an appeal on July 27, 2015. On August 26, 2015, Appeals Examiner Lemberger held an evidentiary hearing by telephone conference. The judge accepted into evidence four exhibits and closed the record at the conclusion of the hearing.¹

4. The appellant has been billed for coverage for April 2015. *Appellant testimony*. He contends that he should not have to pay for coverage that he did not know he had. *Id.*

5. The agency maintains that April 1, 2015 is correct for the beginning of coverage because he selected a plan on March 24, 2015. *Exhibit 2*. In support of this, the agency included a screenshot of the appellant's online enrollment. *Id.* The screenshot shows that the elect date is April 24, 2015 and shows that the effective date is May 1, 2015. *Id.*

CONCLUSIONS OF LAW

1. For MNsure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. 45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D). This appeal is timely.

¹Exhibit 1 – Appeal; Exhibit 2 – Agency Memorandum; Exhibit 3 – Notice of Agency Action; Exhibit 4 – DHS Appeal Summary.

2. The MNSure Board has an agreement with the Department of Human Services to hear and decide appeals involving premium assistance. *Minn. Stat. § 62V.05, subd. 6*. Therefore, the Commissioner has jurisdiction over this appeal.

3. In this case there is no dispute or issue raised by either party relating to Medical Assistance or MinnesotaCare eligibility.

4. When a person is eligible for a special enrollment period due to loss of minimal essential coverage, and the plan selection is made before the effective date of the loss of coverage, the exchange is obligated to ensure that coverage is effective on the first date of the month following the loss of coverage. *45 C.F.R. §155.420(b)(2)(iv)*. In cases where enrollment was due to error on the part of the exchange, or where the carrier substantially violated a material provision of its contract, or where other exceptional circumstances exist, the exchange may determine an effective date that is appropriate based on the circumstances of the special enrollment period. *45 C.F.R. §155.420(b)(2)(iii)*.

5. It is undisputed that Appellant enrolled in a QHP on March 24 2015. MNSure determined Appellant to be eligible for a special enrollment period based on loss of minimal essential coverage that was effective March 24, 2015. Thus, Appellant made the plan selection before the effective date of the loss of coverage, and MNSure was obligated by regulation to determine an effective date of April 1, 2015 for the QHP coverage, to ensure no gap in coverage. There was no error on the part of MNSure in enrolling Appellant in a QHP effective April 1, 2015. Of course, it was error for the agency to tell Appellant that coverage was effective May 1, but this is not an exceptional circumstance that can authorize the agency to change the actual effective date of coverage. MNSure's determination that Appellant's QHP coverage became effective on April 1, 2015 should be affirmed.

8. This decision is effective October 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNSure Board AFFIRM the agency's enrollment of the appellant in a qualified health plan effective April 1, 2015.

/s/ Victoria M. Lemberger
Victoria M. Lemberger
Appeals Examiner

October 5, 2015
Date

ORDER OF THE MNSURE BOARD

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNSure Board adopts the Appeals Examiner's recommendation as the final decision.

FOR THE MNSure Board:

/s/ Louis Thayer
Louis Thayer
Co-Chief Human Services Judge

October 6, 2015
Date

cc: [REDACTED] Appellant
MNSure General Counsel
Teresa Saybe, DHS, 0838

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal recourse.

If you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). This decision is the final decision of MNSure, unless an appeal is made to DHHS. An appeal request may be made to DHHS *within 30 days of the date of this decision* by calling the Marketplace Call Center at 1-800-318-2596 (TTY 855-889-4325); or by downloading the appeals form for Minnesota from the appeals landing page on www.healthcare.gov.
- **Seek judicial review** to the extent it is available by law.